



Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20 and C Streets, NW
Washington, D.C. 20051

December 24, 2009

RE: Docket No. R-1366

This comment letter is sent on behalf of Branch Banking and Trust Company and its affiliates and subsidiaries (BB&T). BB&T is one of the largest financial institutions in the country with \$165.3 billion in assets, and more than 1,800 financial centers in thirteen states and Washington, D.C.

BB&T supports the Board's efforts to ensure consumers receive complete and meaningful disclosures regarding real estate transactions and appreciates the opportunity to provide comments on the Board's proposal to improve those disclosures.

The Board has questioned whether or not the final rules should prohibit originators from steering an applicant to a particular loan product based on compensation received for that product rather than a product that would be in the applicant's best interest. BB&T agrees that an originator should not put an applicant in a product that is not suited for that client, but has concerns about attempting to incorporate such a provision in Regulation Z for three reasons. First, prohibiting compensation on the loan terms would serve to prevent steering as the originator would be compensated equally for any loan originated, making this prohibition redundant. Secondly, incorporating a vague provision such as the one proposed could expose a bank to litigation if the client experienced difficulty after consummation and claimed that the product selected was not in their best interest. BB&T also believes that there are adequate protections under the Unfair and Deceptive Acts and Practices laws and regulations.

The Board is soliciting comment on the costs and benefits of applying Regulation Z to loans over \$25,000 not secured by a primary, secondary, or vacation home. Creditors incur costs to make programming changes, train, develop new processes and procedures and implement new forms. These costs are ultimately passed on to the consumer. In the case of loans not secured by a consumer's primary, secondary, or vacation home, BB&T does not believe there would be sufficient benefit to the consumer to expand the coverage. Such loans are typically made to sophisticated borrowers and are for business or investment purposes. These borrowers are not first time borrowers, nor are they unfamiliar with shopping for loans.

The Board is proposing to change how the finance charge is calculated and is proposing to use a new term "interest and settlement charges." The proposal would require nearly every fee incurred to be included in this calculation, with some exceptions. Those exceptions include fees that are not payable directly or indirectly by a consumer and not imposed directly or indirectly by the creditor as an incident to or condition of the credit. BB&T would appreciate some clarification and examples of what costs might be included in this exception.

The Board has asked whether or not these provisions should be applied to other closed end loans besides those secured by real estate. BB&T believes that applying a different formula to calculate the finance charge and APR to different types of closed end transactions will cause confusion among consumers and bankers alike. It would also create programming challenges and increase the likelihood of inaccurate disclosures if a lender chose the wrong calculation method. While BB&T does not fully support the Board's proposed changes, consistency in calculations among similar products is preferable.



The Board has recognized that including additional fees in the finance charge and APR calculations will likely increase the number of higher-priced mortgage loans (HPMLs), but has estimated this to be an insignificant number. BB&T originates mortgage loans through two channels: its secondary market mortgage loan area and its branches. Due to software and programming restrictions in the systems supporting the loans originated in the branches regarding the escrow requirements, BB&T does not originate HPMLs through its retail branches. For this reason, BB&T believes that the effect of increasing the number of HPMLs will significantly reduce the number of loans originated in the retail branches. While some of these clients may be eligible for secondary mortgage market loans, many will not. In addition, our clients appreciate the ability to obtain a mortgage loan through our branches as these typically have less upfront costs and have a shorter turnaround time.

BB&T is concerned about the Board's proposal to include third party costs in the finance charge and APR calculations and maintain the accuracy tolerances. Creditors have no control over the costs charged by third parties and should not be held accountable for these charges. While redisclosure is an option, every time that occurs the closing will be delayed by an additional 3 days. In addition, disclosures and limitations implemented as part of the RESPA reform provide consumers with adequate protections and information regarding costs. Should the Board adopt the proposal as written, BB&T requests that the Board increase the tolerance limits to account for the uncertainty in certain third party fees.

Including third party charges in the calculations poses another challenge for creditors and that is how to provide accurate early disclosures. As an example, a creditor would know at application that an appraisal would be required, and may know the general costs for appraisals in their market, but would not know which appraiser the applicant would choose or would not know whether there were factors that would require a more comprehensive appraisal. Again, while redisclosure could occur once the actual costs were known, this delays the closing and may cause confusion to the applicant as to why the APR increased.

The Board has requested comment on whether or not creditors should be required to monitor a client's continued eligibility for credit life insurance, debt cancellation or debt suspension coverage, or other similar products. BB&T does not believe that creditors are in a position to monitor such continued eligibility, except as regards to age. The creditor would not be aware, for example, if the client lost their job or became ill. Monitoring a client's age is not something that a creditor typically does and would require programming changes and new monitoring procedures. Each new process developed and implemented by a creditor is costly to that creditor and ultimately results in higher costs to the consumer.

BB&T notes that the Board intends to continue excluding insurance premiums from the finance charge and APR calculations. BB&T agrees with this determination and asks that the Board include clear language to specifically exclude all hazard insurance, including flood insurance.

The Board is proposing to expand this coverage to all real estate loans, not just those secured by a dwelling. BB&T would agree with this approach to the extent that all closed end loans should have similar calculations. However, should the board elect to finalize the calculations as proposed, BB&T does not believe that a loan secured by real estate with no dwelling should be covered to the same extent as a loan secured by the consumer's dwelling.

BB&T requests the Board consider delaying these rules until such time as the Board and HUD can develop streamlined and consistent disclosures. There are inconsistencies and overlap in the early disclosures required by the proposal and the new RESPA that the consumer is likely to be confused. For example, the Board is proposing new, simpler disclosures for ARMs. The Key Questions about Risk are duplicative of information provided on the GFE. BB&T agrees that this is important information for an applicant to have, but providing it multiple times in different documents is not efficient. Additionally, the early Truth-in-Lending disclosures require actual payments to be disclosed while the GFE requires all payments to be



converted to monthly payments. So an applicant could have a Truth-in-Lending disclosure reflecting the actual terms of quarterly payments and the GFE will reflect monthly payments.

BB&T appreciates the opportunity to make comment on the Board's proposal. While we agree that a consumer should have adequate information to make an informed credit decision, we believe the new finance charge and APR calculation proposal is a burden to the creditor without providing substantial benefit to the consumer. We do agree that the format changes as proposed may make it easier for a consumer to understand the loan terms.

Sincerely,

A handwritten signature in black ink that reads 'Sherryl McDonald'. The signature is written in a cursive, flowing style.

Sherryl McDonald
Senior Vice President
Lending Compliance Group Manager